

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 97-374-C - ORDER NO. 98-493
JUNE 30, 1998

IN RE: Proceeding to Review BellSouth Telecommunications, Inc.'s Cost Studies for Unbundled Network Elements.))))	ORDER DENYING PETITIONS FOR REHEARING AND/OR RECONSIDERATION
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This matter comes before the Public Service Commission of South Carolina (the Commission) on two Petitions for Rehearing and/or Reconsideration, one filed by AT&T Communications of the Southern States, Inc. (AT&T), and one filed by MCI Telecommunications Corporation and MCImetro Access Transmission Services, Inc. (collectively "MCI"). Both are identical in content, save for a later filed "Supplement" to the Petition filed by AT&T. BellSouth Telecommunications, Inc. (BellSouth) filed a response to the original AT&T Petition. In any event, both Petitions must be denied, based on the following discussion.

As pointed out by BellSouth with regard to the AT&T Petition, but with reasoning that we believe is duly applicable to both Petitions, neither of the main Petitions raises any issue or ground for reconsideration or rehearing that has not been argued, heard, considered, and ruled on by this Commission in Order No. 98-214. Accordingly, we hold that the Petitions raise no proper issues for reconsideration or rehearing.

On June 1, 1998, this Commission issued Order No. 98-214, wherein it established rates for unbundled network elements, interconnection services, and collocation offered by BellSouth under the Telecommunications Act of 1996 ("1996 Act"). In Order No. 98-214, this Commission concluded that rates should be established based upon the actual costs that BellSouth is expected to incur in providing service on a going forward basis. The Commission ruled in that Order that a modified version of BellSouth's cost studies satisfied this requirement. The Commission concluded that rates established based upon BellSouth's modified cost studies would fairly and adequately compensate BellSouth, while facilitating competition in the local exchange market in South Carolina. The Commission chose not to adopt the hypothetical cost models submitted by AT&T. The Commission's rationale for its conclusions are fully set forth in pages 21 through 40 of Order No. 98-214.

We believe that the record offers ample evidence to support our conclusions. We outlined in our original Order all of the information and studies that the parties and the Staff had presented, and we fully explained our basis for our decision on the issues in dispute. The record offers ample evidence to support our conclusions. We believe that Order No. 98-214 followed a reasoned and reasonable approach in establishing rates.

Despite our general determination that neither of the Petitions states availing grounds for rehearing and/or reconsideration, we will now discuss the specific allegations of the Petitions. The assertions by AT&T and MCI that the rates established by this Commission "are excessive and not in the public interest" lacks merit. We expressly found that BellSouth's cost studies, as modified by the Commission, produced rates that

are “just and reasonable,” are based on cost, and are non-discriminatory. We believe that we correctly applied the requirements of the Telecommunications Act of 1996, and our findings are fully supported by the evidence in the record.

Although the two Petitions assert that the rates and model adopted by the Commission are not in compliance with regulations promulgated by the Federal Communications Commission (FCC), the FCC’s pricing regulations were stricken by the United States Court of Appeals for the Eighth Circuit as being beyond the FCC’s jurisdiction to implement. Thus, as pointed out by BellSouth, those regulations are not binding on this Commission, and have no bearing on the outcome of this case.

We hold that the two Petitions are unduly vague, as they cite no authority for the assertion that the Commission erred in declining to establish costs based upon Integrated Digital Loop Carrier Technology, when such technology cannot be used to provision loops and ports as unbundled elements. Although the Petitions state that the Commission misconstrued the requirements of the Act on this issue, “as interpreted by the Federal Courts,” neither of the Petitioners identify any federal court decision which in any way conflicts with this Commission’s Order.

Therefore, the two main Petitions are without merit, and must be denied.

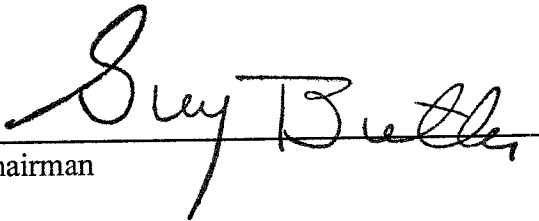
In addition, AT&T filed a “Supplement” to their Petition, which contained an additional alleged ground for rehearing and/or reconsideration of Order No. 98-214. The gravamen of the additional ground is AT&T’s complaint that it has been unable to duplicate the rate results shown on Appendix A of the Order by using the adopted BellSouth cost model as modified per Order No. 98-214. Further, AT&T complains that

rates for unbundled network elements not specified on Appendix A cannot be derived in a manner consistent with both the text of the Order and the methodology actually used to produce the particular rates that are shown on Appendix A.

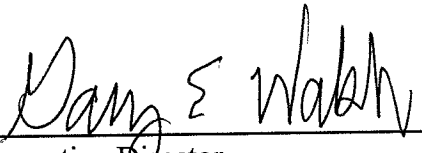
We must deny this supplemental ground as being non-meritorious and non-specific. We certainly cannot tell from reading the Supplement why AT&T cannot duplicate the rate results shown on Appendix A or why it cannot derive the rates for unbundled network elements not specified on Appendix A. For all we know, the problem could be as much with the methodology utilized by AT&T to attempt to duplicate and derive the rates, as it is with the Order. Through its supplemental ground, AT&T cannot state with specificity that the Order is in error. We therefore hold that this additional ground propounded by AT&T is unavailing, and must be denied. However, AT&T is welcome to consult with the Commission Staff, or any other party in order to investigate its inability to duplicate and/or derive the rates for the unbundled network elements as referred to in Order No. 98-214.

This Order shall remain in full force and effect until further Order of the
Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Deputy Executive Director

(SEAL)